

REMARKS

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request entry of its amendments and reconsideration of the claims in view of the remarks presented below.

Claim 30 has been amended, and claims 1-29 have been cancelled without prejudice. Thus, claims 30-36 are pending in the present application.

Claims 30-34, and 36 were rejected under 35 U.S.C. 102(a) as being anticipated by Ginsburg WO 00/10494. Claim 35 was also rejected under 35 U.S.C. 103(a) as being unpatentable over Ginsburg et al. Applicants respectfully transverse these rejections.

For a claim to be anticipated, each and every element of the claim must be found within the prior art reference. That is not the case here. Ginsburg neither teaches nor suggests selecting a ramp rate equal to a desired rate of change of temperature from the body temperature to the target temperature. Ginsburg only discloses providing a selected temperature to a controller which acts to turn the heat exchanger on or off to control body temperature.

Applicants' claims are directed to rapidly and effectively adding or removing heat for a catheter used to control the body temperature of a patient in a very precise manner. In contrast, Ginsburg's disclosure is directed to avoiding undershoot and overshoot of desired target temperature by using a simple on-off mechanism. Nowhere does Ginsburg provide for setting an initial temperature of a catheter heat exchange region and only concerns itself with the end temperature. Ginsburg sets a target temperature for a patient and then turns the controller on and off until the temperature is reached. Applicants go much further from Ginsburg's simple on-off mechanism to claim a method to select a ramp rate equal to a desired time rate of change of temperature from the body temperature to the target temperature before the initiation of heating or cooling. Applicant's claimed method sets the initial temperature of the catheter heat transfer region based on the selected ramp rate, not a target temperature for the patient. This provides for a rapid and effective means to cool or warm a catheter used to control the body temperature of a patient.

Moreover, there is nothing in Ginsburg that would suggest to one skilled in the art to develop such a method to select a ramp rate equal to a desired rate of change of temperature from the body temperature to the target temperature before initiating heating or cooling. Ginsburg directs its narrow focus to the end temperature and on the rate of temperature change as indicated by Ginsburg preference to a simple on-off mechanism.

For all the reasons set forth above, Applicants respectfully submit that the rejections based on or in view of the Ginsburg et al. patent of all claims have been overcome. Accordingly, Applicants request that the rejections be withdrawn and that those claims be allowed.

CONCLUSION

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request entry of its amendments and reconsideration of the claims in view of the remarks presented. In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Should the Examiner have any questions concerning the above amendments and arguments, or any suggestions for further amending the claims to obtain allowance, Applicant requests that the Examiner contact Applicant's attorney, John Fitzgerald, at 310-242-2667.

The Commissioner is authorized to credit any overpayment or charge any additional fees in this matter to our Deposit Account No. 06-2425.

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Respectfully submitted,

FULWIDER PATTON LLP

By:/john k. fitzgerald/
John K. Fitzgerald
Registration No. 38,881

JKF:vmm

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201